

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1419 Session of
2021

INTRODUCED BY MIZGORSKI, JONES, CEPHAS, T. DAVIS, SHUSTERMAN, DALEY, KINSEY, KRAJEWSKI, McNEILL, RYAN, HILL-EVANS, HOHENSTEIN, FREEMAN, INNAMORATO, ISAACSON, MALAGARI, SANCHEZ, SIMS, GUZMAN, WEBSTER, LEE, HOWARD, BROOKS, WARREN, SOLOMON, D. MILLER, KINKEAD, HANBIDGE, YOUNG, KIM, N. NELSON, HELM, SCHWEYER, FITZGERALD, KEEFER, BOBACK, PENNYCUICK, OTTEN, BULLOCK, GUENST, A. BROWN, FIEDLER, McCLINTON, GILLEN, FLOOD, KENYATTA, SCHMITT, BURGOS, PARKER, MERSKI, MERCURI, KAIL, LEWIS, TOOHIL, KNOWLES, ECKER, RIGBY, FRANKEL, BONNER, SCHEMEL, GLEIM, B. MILLER, ZIMMERMAN, COOK, TWARDZIK, MOUL, BRIGGS AND DELLOSO, SEPTEMBER 21, 2021

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, SEPTEMBER 14, 2022

AN ACT

1 Amending Title 61 (Prisons and Parole) of the Pennsylvania
2 Consolidated Statutes, in general administration, further
3 providing for State recording system for application of
4 restraints to pregnant prisoners or detainees; in county
5 correctional institutions, further providing for county
6 recording system for application of restraints to pregnant
7 prisoners or detainees; and, in miscellaneous provisions,
8 further providing for healthy birth for incarcerated women
9 and providing for restrictive housing prohibited for pregnant
10 or postpartum incarcerated individuals and detainees, for
11 cavity search and inspection restrictions, for training and
12 education requirement, for family consideration in placement
13 and visitation, for feminine hygiene and incontinence
14 products and for postpartum recovery.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 Section 1. Section 1104 of Title 61 of the Pennsylvania
18 Consolidated Statutes is amended to read:

19 § 1104. State recording system [for application of restraints]

1 relating to pregnant [prisoners] and postpartum
2 incarcerated individuals or detainees.

3 (a) General rule.--[A correctional institution as defined by
4 section 5905(e) (relating to healthy birth for incarcerated
5 women) shall report each restraint applied to a pregnant
6 prisoner or detainee. The report must be in writing and must
7 note the number of restraints. Individual, separate written
8 findings for each restraint must accompany the report. This
9 shall include reports from the following:] A correctional

10 institution shall, in writing, report each restraint applied to
11 a pregnant, laboring or postpartum individual in the
12 correctional institution's custody, as well as any instance
13 where a pregnant, laboring or postpartum individual is placed in
14 restrictive housing. The report shall note the number and type
15 of restraints or, in the case of restrictive housing, the length
16 of time the individual was placed in restrictive housing. The
17 provisions of this subsection shall apply to any person tasked
18 with transporting or housing incarcerated individuals or
19 detainees. As it relates to restraints, the report need not
20 include when handcuffs are used on an incarcerated individual or
21 detainee that are associated with placement while in restrictive
22 housing. Reports shall be made as follows:

23 (1) A correctional institution that is not operated,
24 supervised or licensed by the Department of [Public Welfare]
25 Human Services pursuant to the act of June 13, 1967 (P.L.31,
26 No.21), known as the [Public Welfare] Human Services Code,
27 shall make the report to the secretary.

28 (2) A correctional institution that is operated,
29 supervised or licensed by the Department of [Public Welfare]
30 Human Services pursuant to the [Public Welfare] Human

1 Services Code shall make the report to the Secretary of
2 [Public Welfare] Human Services.

3 (b) Contents of [written findings.--Written findings]
4 report.--Reports of each restraint or placement of an
5 incarcerated individual or detainee in restrictive housing as
6 required under subsection (a) must include the following:

7 [(1) the circumstances that led to the determination
8 that the prisoner or detainee represented a substantial risk
9 of imminent flight; or

10 (2) the circumstances that led to the determination that
11 other extraordinary medical or security circumstances
12 dictated the prisoner or detainee be restrained to ensure the
13 safety and security of the prisoner or detainee, the staff of
14 the correctional institution or medical facility, other
15 prisoners or detainees or the public.]

16 (2.1) The circumstances that led to the determination
17 that:

18 (i) the incarcerated individual or detainee
19 represented a substantial risk of imminent flight; or

20 (ii) other extraordinary medical or security
21 circumstances dictated that the incarcerated individual
22 or detainee be restrained or placed in restrictive
23 housing to ensure the safety and security of the
24 incarcerated individual or detainee, the staff of the
25 correctional institution or medical facility, other
26 incarcerated individuals or detainees or the public.

27 (3) The date and time restraints were applied or the
28 restrictive housing placement occurred and the length of time
29 the incarcerated individual or detainee was kept in
30 restraints or restrictive housing.

1 (4) The badge number or identification number of the
2 following:

3 (i) The custodian or staff member that applied the
4 restraints or placed the individual into restrictive
5 housing.

6 (ii) Any superior officers approving or advising the
7 application of restraints or placement in restrictive
8 housing.

9 (5) The number and type of restraints used or the
10 location and description of the restrictive housing.

11 (6) Any visible injury of the incarcerated individual or
12 detainee resulting from placement in the restraints that is
13 documented by the correctional institution.

14 (c) Staff presence during labor.--Other than licensed
15 medical professionals, only female staff shall be present in the
16 room during the examination, labor or delivery of the pregnant
17 incarcerated individual. If male staff, other than licensed
18 medical professionals, remain present during the examination,
19 labor or delivery of the pregnant incarcerated individual, that
20 information and the reasons for the presence shall be reported
21 to the department or the Department of Human Services, as
22 applicable.

23 (d) Availability of reports.--The nonidentifying data
24 contained in the written reports submitted to the department or
25 the Department of Human Services shall be posted on the
26 department's or the Department of Human Services' publicly
27 accessible Internet website annually. No identifying
28 information, such as names or dates of birth, shall be posted.

29 (e) Failure to submit report.--If a correctional institution
30 fails to submit a report under this section within 30 days after

1 the end of the fiscal year, the department or the Department of
2 Human Services, as applicable, shall obtain a certification, to
3 be created by the department or the Department of Human
4 Services, as applicable, from the correctional institution
5 verifying that the institution had zero instances of use of
6 restraints, placement in restrictive housing or male staff
7 presence, other than licensed medical professionals, during
8 medical examinations or appointments of pregnant incarcerated
9 individuals under the provisions of this section.

10 (f) Definitions.--As used in this section, the following
11 words and phrases shall have the meanings given to them in this
12 subsection unless the context clearly indicates otherwise:

13 "Correctional institution." As defined in section 5905(e)
14 (relating to healthy birth for incarcerated women).

15 "Postpartum." The eight-week period, or longer as determined
16 by the health care professional responsible for the health and
17 safety of the incarcerated individual or detainee, following
18 childbirth.

19 "Restraints." Any physical or mechanical device used to
20 restrict or control the movement of an incarcerated individual's
21 body, limbs or both.

22 "Restrictive housing." Any type of detention that involves
23 removal from the general incarcerated population for purposes of
24 discipline or administrative purpose.

25 "Staff." An individual who is employed or contracted by a
26 correctional institution, the department or the Department of
27 Human Services.

28 Section 2. Sections 1758 heading, (a) and (b) and 5905 of
29 Title 61 are amended to read:

30 § 1758. County recording system for [application of restraints

1 to pregnant prisoners] pregnant and postpartum
2 incarcerated individuals or detainees.

3 (a) General rule.--[The application of restraints to a
4 pregnant prisoner or detainee occurring pursuant to section 5905
5 (relating to healthy birth for incarcerated women) shall
6 constitute an incident that qualifies as an extraordinary
7 occurrence that must be reported to the department in the County
8 Extraordinary Occurrence Monthly Report.] Each of the following
9 shall constitute an incident that qualifies as an extraordinary
10 occurrence that must be reported to the department in the County
11 Extraordinary Occurrence Monthly Report in accordance with
12 sections 5905 (relating to healthy birth for incarcerated women)
13 and 5905.1 (relating to restrictive housing prohibited for
14 pregnant or postpartum incarcerated individuals and detainees):

15 (1) The application of restraints or placement in
16 restricted housing for a pregnant or postpartum incarcerated
17 individual or detainee.

18 (2) An invasive cavity search of a pregnant or
19 postpartum incarcerated individual or detainee or inspection
20 of a female incarcerated individual or detainee in a state of
21 undress.

22 (3) The presence of male staff during labor or delivery
23 of the pregnant incarcerated individual or detainee.

24 (b) Information to be included in County Extraordinary
25 Occurrence Monthly Report.--

26 [(1) Any and all incidents where the application of
27 restraints to a pregnant prisoner or detainee pursuant to
28 section 5905 occurred must be included in the County
29 Extraordinary Occurrence Monthly Report that is submitted to
30 the department. An indication of the incidents must be noted

1 on the designated report form or other available approved
2 method, if applicable, and individual, separate written
3 findings must accompany the form for each incident that
4 occurred.

5 (2) Written findings of each incident as required under
6 paragraph (1) must include the following:

7 (i) the circumstances that led to the determination
8 that the prisoner or detainee represented a substantial
9 risk of imminent flight; or

10 (ii) the circumstances that led to the determination
11 that other extraordinary medical or security
12 circumstances dictated the prisoner or detainee be
13 restrained to ensure the safety and security of the
14 prisoner or detainee, the staff of the correctional
15 institution or medical facility, other prisoners or
16 detainees or the public.]

17 (3) The report for application of restraints or
18 placement in restricted housing for a pregnant or postpartum
19 incarcerated individual or detainee shall require the
20 following information:

21 (i) The circumstances that led to the determination
22 that:

23 (A) the incarcerated individual or detainee
24 represented a substantial risk of imminent flight; or

25 (B) other extraordinary medical or security
26 circumstances dictated that the incarcerated
27 individual or detainee be restrained or placed in
28 restrictive housing to ensure the safety and security
29 of the incarcerated individual or detainee, the staff
30 of the correctional institution or medical facility,

1 other incarcerated individuals or detainees or the
2 public.

3 (ii) The date and time restraints were applied or
4 the restrictive housing placement occurred and the length
5 of time the incarcerated individual or detainee was kept
6 in restraints or restrictive housing.

7 (iii) The badge number or identification number of
8 the following:

9 (A) The custodian or staff member that applied
10 the restraints or placed the individual into
11 restrictive housing.

12 (B) Any superior officers approving or advising
13 the application of restraints or placement in
14 restrictive housing.

15 (iv) The number and type of restraints used or the
16 location and description of the restrictive housing.

17 (v) Any visible injury of the incarcerated
18 individual or detainee resulting from placement in the
19 restraints that is documented by the correctional
20 institution.

21 (4) The report for an invasive cavity search of a
22 pregnant or postpartum incarcerated individual or detainee or
23 inspection of a female incarcerated individual or detainee in
24 a state of undress shall contain the following information:

25 (i) The justification for performing a cavity search
26 or male staff inspection of a female incarcerated
27 individual or detainee in a state of undress.

28 (ii) The identification of any contraband that was
29 found on the incarcerated individual or detainee.

30 (5) The report for the presence of male staff during

1 labor or delivery of the pregnant incarcerated individual or
2 detainee shall include the reasons for the presence of male
3 staff.

4 (6) The nonidentifying data contained in the written
5 reports submitted to the department or the Department of
6 Human Services shall be posted annually on the publicly
7 accessible Internet website of the department or the
8 Department of Human Services. No identifying information,
9 such as names or dates of birth, shall be posted.

10 (7) If a correctional institution fails to submit a
11 report under this section within 30 days after the end of the
12 fiscal year, the department or the Department of Human
13 Services, as applicable, shall obtain a certification, to be
14 created by the department or the Department of Human
15 Services, as applicable, from the correctional institution
16 verifying that the institution had zero instances of use of
17 restraints, placement in restrictive housing or male staff
18 presence, other than licensed medical professionals, during
19 medical examinations or appointments of pregnant incarcerated
20 individuals under the provisions of this section.

21 * * *

22 § 5905. Healthy birth for incarcerated women.

23 (a) Duties of correctional institution.--Consistent with
24 established policy and practice, it shall be the duty and
25 responsibility of the correctional institution to provide
26 adequate personnel to monitor the pregnant [prisoner]
27 incarcerated individual or detainee during transport to and from
28 the medical facility and during her stay at the medical
29 facility.

30 (b) Restraint of pregnant [prisoners] incarcerated

1 individuals and detainees.--

2 (1) Unless provided in paragraph (2), a correctional
3 institution shall not apply restraints, EXCLUDING HANDCUFFS, <--
4 to [a prisoner] an incarcerated individual or detainee known
5 to be pregnant [during any stage of labor, any pregnancy-
6 related medical distress, any period of delivery,] or during
7 any period of postpartum as defined in [subsection (e) or
8 transport to a medical facility as a result of any of the
9 preceding conditions or transport to a medical facility after
10 the beginning of the second trimester of pregnancy.] section
11 1104(f) (relating to State recording system relating to
12 pregnant and postpartum incarcerated individuals or
13 detainees).

14 (2) Paragraph (1) shall not bar reasonable restraint
15 provided the correctional institution staff assigned to the
16 [prisoner] incarcerated individual or detainee makes an
17 individualized determination that the [prisoner] incarcerated
18 individual or detainee presents a substantial risk of
19 imminent flight or some other extraordinary medical or
20 security circumstance dictates that the [prisoner]
21 incarcerated individual or detainee be restrained to ensure
22 the safety and security of the [prisoner] incarcerated
23 individual or detainee, the staff of the correctional
24 institution or medical facility, other [prisoners]
25 incarcerated individuals or detainees or the public. The
26 assigned correctional institution staff shall report the
27 incident to the correctional institution in a reasonable
28 amount of time after the restraint occurs. [If the assigned
29 correctional institution staff is not employed by the
30 correctional institution, then the assigned correctional

1 institution staff] Any use of restraints on a pregnant or
2 postpartum incarcerated individual by an individual or entity
3 that is not employed by the correctional institution but is
4 transporting the pregnant or postpartum incarcerated
5 individual on behalf of the correctional institution shall
6 report the restraint to the correctional institution in a
7 reasonable amount of time after the incident occurs. The
8 reporting requirement shall not apply to any law enforcement
9 agency unless it is transporting pregnant or postpartum
10 incarcerated individuals on behalf of the correctional
11 institution.

12 (3) If restraint is applied under paragraph (2), at no
13 time shall the [prisoner] incarcerated individual or detainee
14 be left unattended by a correctional institution staff with
15 the ability to release the restraint should a release become
16 medically necessary.

17 (4) When a restraint is permitted under this section, a
18 correctional institution shall use the least restrictive
19 restraint necessary when the facility has actual or
20 constructive knowledge that [a prisoner] an incarcerated
21 individual or detainee is in the second or third trimester of
22 pregnancy.

23 (c) Restraints.--The following shall apply to [a prisoner]
24 an incarcerated individual or detainee who has been restrained
25 under this subsection:

26 (1) The correctional institution staff accompanying the
27 [prisoner] incarcerated individual or detainee shall
28 [**immediately**] PROMPTLY remove all restraints upon request of <--
29 a doctor, nurse or other health care professional.

30 (2) Leg or waist restraints shall not be used on any

1 [prisoner] incarcerated individual or detainee who is in
2 labor.

3 (3) The type of restraint applied and the application of
4 the restraint shall be done in the least restrictive manner
5 possible.

6 [(d) Annual report.--No later than August 1 of each year,
7 the secretary and the Secretary of Public Welfare shall each
8 submit to the Governor's Office a written report containing
9 information regarding the use of restraints on any pregnant
10 prisoner or detainee during the preceding fiscal year
11 specifically identifying and enumerating the circumstances that
12 led to the determination that the prisoner or detainee fell
13 under the exception in subsection (b) (2). The secretary shall
14 report on pregnant prisoners or detainees in the custody of
15 correctional institutions operated, supervised or licensed by
16 the department. The Secretary of Public Welfare shall report on
17 pregnant prisoners or detainees in the custody of correctional
18 institutions operated, supervised or licensed by the Department
19 of Public Welfare pursuant to the act of June 13, 1967 (P.L.31,
20 No.21), known as the Public Welfare Code. The reports shall not
21 contain any identifying information of any prisoner or detainee.
22 The reports shall be posted on the Governor's Internet website
23 and shall be made available for public inspection at the offices
24 of the department and the Department of Public Welfare,
25 respectively.]

26 (e) Definitions.--As used in this section, the following
27 words and phrases shall have the meanings given to them in this
28 subsection unless the context clearly indicates otherwise:

29 "Correctional institution." Any entity under the authority
30 of the state or any county or municipality that has the power to

1 detain and restrain a person under the laws of this
2 Commonwealth.

3 "Detainee." Includes any person detained under the
4 immigration laws of the United States at any correctional
5 facility.

6 "Incarcerated individual." An individual incarcerated or
7 detained in a correctional institution who is accused of,
8 convicted of, sentenced for or adjudicated delinquent for
9 violations of criminal law or the terms and conditions of
10 parole, probation, pretrial release or a diversionary program.

11 ["Labor." The period of time before a birth during which
12 contractions are of sufficient frequency, intensity and duration
13 to bring about effacement and progressive dilation of the
14 cervix. The determination of when labor has commenced shall rest
15 solely with the medical providers of the prisoner or detainee.

16 "Postpartum." The period following delivery before a
17 prisoner or detainee has been discharged from a medical
18 facility.

19 "Prisoner." Any person incarcerated or detained in any
20 correctional institution who is accused of, convicted of,
21 sentenced for or adjudicated delinquent for violations of
22 criminal law or the terms and conditions of parole, probation,
23 pretrial release or a diversionary program.]

24 "Restraint." Any physical hold or mechanical device used to
25 control the movement of [a prisoner's] an incarcerated
26 individual's or detainee's body [and] or limbs[, including, but
27 not limited to, shackles, flex cuffs, soft restraints, hard
28 metal handcuffs, a black box, Chubb cuffs, leg irons, belly
29 chains, a security (tether) chain or a convex shield] or both.

30 Section 3. Title 61 is amended by adding sections to read:

1 § 5905.1. Restrictive housing prohibited for pregnant or
2 postpartum incarcerated individuals and detainees.

3 (a) Restrictive housing prohibited.--Except as provided
4 under subsection (c), a pregnant or postpartum incarcerated
5 individual or detainee may not be involuntarily placed in
6 restrictive housing in any correctional institution in this
7 Commonwealth.

8 (b) Alternative discipline.--Forms of discipline for
9 pregnant and postpartum incarcerated individuals or detainees
10 shall be limited to sanctions, including restrictions on
11 telephone usage or visitation or other common forms of
12 alternative discipline used in the United States.

13 (c) Exceptions.--A pregnant or postpartum incarcerated
14 individual or detainee may be placed in restrictive housing only
15 as a temporary response to behavior that poses a serious and
16 immediate risk of physical harm to the pregnant or postpartum
17 incarcerated individual or detainee, another incarcerated
18 individual or detainee, the unborn child of the pregnant
19 incarcerated individual or detainee or staff. The following
20 shall apply:

21 (1) The decision to place a pregnant or postpartum
22 incarcerated individual or detainee in restrictive housing
23 under this subsection must be approved by the chief
24 administrator.

25 (2) The rationale for the decision under this subsection
26 must be documented as required by section 1104 (relating to
27 State recording system relating to pregnant and postpartum
28 incarcerated individuals or detainees).

29 (3) No period of restrictive housing shall exceed seven
30 days without additional approval and documented rationale, as

1 required by section 1104, of the chief administrator. There
2 shall be a minimum of seven days between each restrictive
3 placement absent extraordinary circumstances.

4 (d) Bed assignments.--The correctional institution may not
5 assign a pregnant incarcerated individual or detainee to any bed
6 that is elevated more than three feet from the floor of the
7 facility.

8 (e) Definition.--As used in this section, the term
9 "postpartum" means the eight-week period, or longer as
10 determined by the health care professional responsible for the
11 health and safety of the incarcerated individual or detainee,
12 following childbirth.

13 § 5908. Cavity search and inspection restrictions.

14 (a) Cavity search and inspection restrictions.--To the
15 greatest extent possible:

16 (1) No staff other than a licensed health care
17 professional shall conduct an invasive body cavity search of
18 a pregnant or postpartum incarcerated individual or detainee.

19 (2) A correctional institution shall limit searches by
20 male staff, other than medically licensed professional male
21 staff, if a female incarcerated individual or detainee is in
22 a state of undress.

23 (b) Documentation requirement.--If staff is required to
24 perform an invasive cavity search on a pregnant or postpartum
25 incarcerated individual or detainee, or male staff, other than
26 medically licensed professional male staff, is required to
27 conduct a search on a female incarcerated individual or detainee
28 in a state of undress, a written report shall be submitted to
29 the correctional institution within 72 hours following the
30 cavity search or inspection. The report under this subsection

1 shall:

2 (1) include the justification for performing the cavity
3 search or male staff inspection as required in this
4 subsection;

5 (2) document and identify any contraband that was found
6 on the incarcerated individual or detainee; and

7 (3) be sent to the department or the Department of Human
8 Services, as applicable.

9 (c) Definitions.--As used in this section, the following
10 words and phrases shall have the meanings given to them in this
11 subsection unless the context clearly indicates otherwise:

12 "Body cavity search." An invasive search of incarcerated
13 individuals or detainees, conducted by staff in search of
14 contraband, excluding the nose, ears and mouth.

15 "Staff." An individual, including contracted staff, who is
16 employed by a correctional institution, the department or the
17 Department of Human Services, excluding any licensed medical
18 professional.

19 "State of undress." A state where an incarcerated or
20 detained female is partially or fully naked, either in the
21 shower, toilet areas, a medical examination room or while a body
22 cavity search is being conducted.

23 § 5909. Training and education requirement.

24 (a) Correctional institution staff training.--The department
25 and the Department of Human Services shall jointly develop and
26 provide correctional institutions with a training program for
27 staff who have contact with a pregnant, laboring or postpartum
28 incarcerated individual or detainee. The training program shall
29 be related to the physical and mental health of the pregnant or
30 postpartum incarcerated individual or detainee and unborn child,

1 including:

2 (1) The general care of a pregnant individual.

3 (2) The impact of restraints on a pregnant individual
4 and unborn child.

5 (3) The impact of being placed in restrictive housing on
6 a pregnant individual.

7 (4) The impact of invasive searches on a pregnant
8 individual.

9 (5) Any other pertinent information the department or
10 the Department of Human Services finds appropriate or
11 necessary.

12 (b) Correctional institution staff training exceptions.--If
13 the correctional institution or county correctional institution
14 prohibits the placement of pregnant individuals as a matter of
15 law, that institution may submit a written exemption reporting
16 that there is no risk of staff interacting with pregnant
17 individuals housed in the institution. The exemption under this
18 subsection shall apply only to the correctional institution, not
19 the individual staff of the institution. All correctional
20 institution staff that come in contact with pregnant
21 incarcerated individuals shall complete the training under this
22 section. If correctional institution staff work at more than one
23 institution, the staff must receive the required training at the
24 nonexempt institution.

25 (c) Education programming for pregnant incarcerated
26 individuals.--The department and the Department of Human
27 Services shall jointly develop and provide correctional
28 institutions and county correctional institutions with
29 educational programming for pregnant or postpartum incarcerated
30 individuals or detainees. The educational programming shall be

1 related to:

2 (1) Medical screenings related to female reproductive
3 and overall health, including preventive screenings.

4 (2) Prenatal care.

5 (3) Pregnancy-specific hygiene.

6 (4) The impact of alcohol and drugs on the unborn child.

7 (5) General health of the child.

8 (6) Any other pertinent information the department or
9 the Department of Human Services finds appropriate or
10 necessary.

11 (d) Trauma-informed care.--The following shall apply:

12 (1) The chief administrator shall, as the chief
13 administrator deems necessary, ensure that the correctional
14 institution provides to incarcerated individuals and
15 detainees quality trauma-informed care.

16 (2) Trauma-informed care for an individual shall begin
17 immediately upon the individual's intake and assessment at a
18 correctional institution.

19 (3) Correctional staff shall receive professional
20 training, approved by the Department of Human Services,
21 related to trauma-informed care, which shall include, but not
22 be limited to, the following:

23 (i) Training to identify individuals with trauma.

24 (ii) Training on how and when to refer individuals
25 to the proper health care professionals, including, but
26 not limited to, preventive health care and mental health
27 care.

28 (iii) Training on how to interact with and empower
29 incarcerated individuals who have experienced trauma.

30 (e) Definitions.--As used in this section, the following

1 words and phrases shall have the meanings given to them in this
2 subsection unless the context clearly indicates otherwise:

3 "Postpartum." The eight-week period, or longer as determined
4 by the health care professional responsible for the health and
5 safety of the incarcerated individual or detainee, following
6 childbirth.

7 "Trauma-informed care." An organizational structure and
8 treatment framework that involves recognizing, understanding and
9 responding to the effects of trauma.

10 § 5910. Family consideration in placement and visitation.

11 (a) Visitation.--The department and the Department of Human
12 Services shall make efforts to authorize visitation by a minor
13 dependent child, with the minimum following requirements:

14 ~~(1) One visit per inmate per week will be permitted. <--~~
15 ~~Additional visits may be permitted.~~

16 ~~(2) A minor dependent child under 18 years of age may be~~
17 ~~able to visit the minor dependent child's parent at least one~~
18 ~~day per week subject to department policy and facility space,~~
19 ~~staffing and administrative capacity. The department shall~~
20 ~~make efforts to provide the visitation in person, but the~~
21 ~~visitation may be permitted through virtual means, subject to~~
22 ~~department policy and facility space, staffing and~~
23 ~~administrative capacity.~~

24 (1) A MINOR DEPENDENT CHILD UNDER 18 YEARS OF AGE SHALL <--
25 BE ABLE TO VISIT IN PERSON THE MINOR DEPENDENT CHILD'S PARENT
26 AT LEAST ONCE PER WEEK SUBJECT TO DEPARTMENT POLICY AND
27 FACILITY SPACE, STAFFING AND ADMINISTRATIVE CAPACITY.

28 (2) THE VISITS SHALL NOT IMPACT VISITATION PRIVILEGES
29 UNDER 37 PA. CODE § 93.3 (RELATING TO INMATE VISITING
30 PRIVILEGES).

1 (3) ADDITIONAL VISITS MAY BE PERMITTED THROUGH VIRTUAL
2 MEANS, SUBJECT TO DEPARTMENT POLICY AND FACILITY SPACE,
3 STAFFING AND ADMINISTRATIVE CAPACITY.

4 (b) Exceptions.--Visitation privileges shall not be
5 authorized under subsection (a):

6 (1) For parents who have been deemed unsafe or
7 ineligible for visitation through the department or the
8 Department of Human Services until deemed safe or eligible
9 for visitation by the department or the Department of Human
10 Services.

11 (2) In instances where the minor dependent child was the
12 victim of a criminal offense under 18 Pa.C.S. (relating to
13 crimes and offenses) resulting in the incarceration or
14 detention of the parent.

15 (3) If the parent voluntarily enrolled in a detention
16 program which prohibits visitation.

17 § 5911. Feminine hygiene and incontinence products.

18 (a) Issuance of feminine hygiene products related to
19 menstruation.--A supply of feminine hygiene products shall be
20 provided to all incarcerated individuals and detainees who are
21 menstruating in a correctional institution each month at no cost
22 to the incarcerated individuals and detainees, regardless of
23 financial means. Incarcerated individuals and detainees shall
24 not be required to show proof of need or to undergo a medical
25 examination or obtain a medical permit, authorization or
26 diagnosis to receive the products under subsection (b).

27 (b) Feminine hygiene products provided.--A choice of at
28 least two sizes or absorbencies of sanitary pads shall be
29 distributed to all incarcerated individuals and detainees who
30 are menstruating in a correctional institution or if requested

1 from medical staff.

2 (c) Feminine hygiene products to be requested.--A choice of
3 at least two sizes of tampons shall be distributed to
4 incarcerated individuals and detainees who request a tampon from
5 medical staff.

6 (d) Issuance of feminine hygiene products related to bladder
7 control and incontinence.--A supply of products for bladder
8 control and incontinence shall be provided to incarcerated
9 individuals and detainees, including geriatric incarcerated
10 individuals and postpartum incarcerated individuals, who require
11 such products each month at no cost to incarcerated individuals
12 and detainees, regardless of financial means.

13 (e) Bladder control and incontinence products
14 distribution.--Adult diapers or protective undergarments shall
15 be distributed to incarcerated individuals who require them.

16 (f) Rules and regulations.--The correctional institution
17 shall promulgate rules necessary to implement and enforce the
18 provisions of this section.

19 (g) Definition.--As used in this section, the term "feminine
20 hygiene products" means products that women use during
21 menstruation. The term includes tampons and sanitary napkins.

22 § 5912. Postpartum recovery.

23 (a) Restraints during postpartum recovery.--No restraints
24 shall be used on any incarcerated individual or detainee who has
25 given birth within the last 30 days and is in postpartum
26 recovery, unless the department or the Department of Human
27 Services, as applicable, has a reasonable belief that the
28 incarcerated individual or detainee will harm themselves, their
29 newborn or another individual or pose a substantial risk of
30 imminent flight. If restraints are used, the facility employee

1 ordering the use of restraints on an incarcerated individual or
2 detainee while in postpartum recovery shall submit a written
3 report to the chief administrator of the facility within 72
4 hours following the use of the restraints, containing the
5 justification for restraining the incarcerated individual or
6 detainee during postpartum recovery. The report shall also be
7 sent to the department or the Department of Human Services, as
8 applicable.

9 (b) Postdelivery bonding period.--Following the delivery of
10 a newborn and subject to hospital policies, including, but not
11 limited to, length of stay, the department or the Department of
12 Human Services shall permit the child to remain with the mother
13 at the hospital for up to 72 hours unless there is a reasonable
14 belief that the child remaining with the mother presents a
15 health or safety risk to the child.

16 (c) Definitions.--As used in this section, the following
17 words and phrases shall have the meanings given to them in this
18 subsection unless the context clearly indicates otherwise:

19 "Licensed medical professional." An individual licensed to
20 practice medicine in this Commonwealth, as well as a nurse
21 practitioner, physician assistant or nurse.

22 "Postpartum recovery." The eight-week period, or longer as
23 determined by the health care professional responsible for the
24 health and safety of the incarcerated individual or detainee,
25 following childbirth.

26 "Substantial risk of imminent flight." A showing of real and
27 considerable risk of escaping by the incarcerated individual
28 with the intent to avoid continued incarceration. An
29 individual's history of escape attempts and flight to avoid
30 continued incarceration may be relevant to the determination,

1 but history alone cannot meet the requirement.

2 Section 4. This act shall take effect in 180 days.